Supreme Court, U.S.
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No. 99-1981

IN THE

Supreme Court of the United States

CHARLES SHIRLEY, LARRY BOULDES,
JIMMIE A. SHIRLEY and WILLIE BOULDES,

Petitioners,

v.

CHRISTIAN METHODIST EPISCOPAL CHURCH,

Respondent.

ON PETITION FOR A WRIT OF CERTIORARI
TO THE SUPREME COURT OF MISSISSIPPI

RESPONDENT'S BRIEF

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QUESTIONS PRESENTED

1. Under the First Amendment to the United States Constitution, in adjudicating church property disputes, state courts may utilize neutral principles of law to determine that implied trusts may be created by virtue of the hierarchical churches' *Book of Discipline*, interpretations of the language of the deeds, and conduct of the parties and be given greater weight than the language of deeds, there being no local church charter or statutes to the contrary.

2. Such a rule or presumption is consistent with the decision in *Jones v. Wolf*.

3. Such a rule or presumption is not violative of the "free exercise" or "establishment" clauses of the First Amendment.

LIST OF PARTIES

The following is a list of all parties to the proceedings in the court below, as required by Rule 24.1(b) and Rule 29.1 of the Rules of the Supreme Court of the United States.

1. Charles Shirley, Larry Bouldes, Jimmy Shirley, Willie Bouldes, Defendants/Appellants/Petitioners;

2. Christian Methodist Episcopal Church, Plaintiff/ Appellee/Respondent;

3. Gary Street Goodwin, Attorney for Defendants/ Appellants/Petitioners;

4. Hal H. H. McClanahan, III, and Randolph Walker, Attorneys for Plaintiff/

5. Appellee/Respondent;

6. Amici Curiae in the Mississippi Supreme Court:

   (a) General Counsel of Finance and Administration of the United Methodist Church;

   (b) The Mississippi Annual Conference of the United Methodist Church;

   (c) The Stated Clerk of the General Assembly of the Presbyterian Church (U.S.A.);

   (d) The United House of Prayer of All People of the Church on the Rock of Apostolic Faith;

(e) The Presbyter of the Presbytery of Saint Andrew; and

(f) The Seventh-Day Adventist Church.

7. Thomas E. Starnes and Irene Howard, Attorneys for *Amici Curiae*.

STATEMENT PURSUANT TO RULE 29.6

Respondent, Christian Methodist Episcopal Church, has no parent corporation and no publicly held company owns 10% or more of its stock.

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Other Authorities:

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Section 515.1(10) of the 1994 *Book of Discipline* . 4

Section 601-4 of the 1994 *Book of Discipline* 4

Section 606.2 of the 1994 *Book of Discipline* 4

STATEMENT OF JURISDICTION

The Court does not have jurisdiction to review the above decision rendered on September 16, 1999, rehearing denied on January 13, 2000, pursuant to Writ of Certiorari under 28 U.S.C. § 1257.

Respondent specifically objects to jurisdiction herein pursuant to 28 U.S.C. § 1257. In neither the Chancery Court of Lowndes County, Mississippi, (trial court) nor the Supreme Court of the State of Mississippi (state appellate court) were alleged violations of the First Amendment to the United States Constitution in its free exercise or establishment clauses raised as affirmative defenses pursuant to Mississippi Rules of Civil Procedure Section 12(B) or in the Statement of Issues as specified in Rule 10(b)4 of the Mississippi Rules of Appellate Procedure respectively. Consequently the Petitioner can not raise for the first time these issues on appeal to the United States Supreme Court. Petitioner's Answer to Amended Complaint and Counterclaim in Chancery Court and Statement of Issues as excerpted from the Appellants' Brief to the Mississippi Supreme Court are reprinted in their entirety in the Appendix.

Without waiver of its objection to jurisdiction the Respondent proceeds as hereinafter set forth with its Brief in Opposition.

STATEMENT OF THE CASE

After a schism between the Petitioners and Respondent in November 1996, the Mississippi Supreme Court in *Church of God Pentecostal, Inc. v. Free Will Pentecostal Church of God, Inc.*, 716 So. 2d 200 (1998) adopted the neutral

principles of law as optioned by the United States Supreme Court in *Jones v. Wolf*, 443 U.S. 595, 602, 99 S. Ct. 3020, 61 L. Ed. 2d 775 (1979) for deciding issues involving title to church property, provided the court was not getting into interpretation of ecclesiastical dogma. Following the neutral principles of law as outlined in *Jones* and adopted in *Pentecostal*, the Mississippi Supreme Court confirmed the title of the Respondent for the reasons set forth in the Opinion.

COUNTERSTATEMENT OF THE FACTS

The facts of this case are stated in the Opinion of the Mississippi Supreme Court. In this response the Petitioners will be referred to as Cross Roads and the Respondent as CME.

Prior to February 10, 1947, Cross Roads had been functioning as a CME church; and on February 10, 1947, a 1.4-acre tract of land in Lowndes County, Mississippi, was conveyed from R. L. Poole and Delphia J. Poole to J. E. Spruill, Charlie Bryant, Jessie Shirley and N. L. Poole, Trustees of the Cross Roads Colored Methodist Episcopal Church and their successors and assigns.

CME is a hierarchical church in which the authority flows from the top to the bottom as an organized system in which all churches are affiliated with the mother church with control being exercised by the presiding bishop to the respective conferences of the church in each of the ten districts of the church.

At all points CME was governed by a *Book of Discipline*, which contained all the rules and regulations governing the mother church and in turn the local churches. The *Book of Discipline* is published every four years.

The 1946 *Book of Discipline* governed the conveyance of land to the trustees of Cross Roads in trust for CME. The 1946 *Book of Discipline* required a certain clause to be inserted in all deeds for CME churches, which was not used in the 1947 deed. The 1947 deed, however, was to the four named individuals as trustees of the Cross Roads Colored Methodist Episcopal Church and their successors and assigns. CME was originally known as Colored Methodist Episcopal Church and later changed its name to Christian Methodist Episcopal Church.

For forty-nine years Petitioners participated fully in all aspects of CME by accepting ministers, attending conferences, paying assessments to conferences, receiving construction funds from CME, receiving literature from CME, and taking part in all CME activities. It is undisputed by the Petitioners' own testimony that at all times, even prior to 1947, Cross Roads had been a CME church.

In 1994 CME changed its *Book of Discipline* to take care of the lack of an express trust provision as mandated by the 1946 *Book of Discipline*.

In 1996 Cross Roads began taking steps to force a schism with CME culminating with a congregational vote on November 20, 1996, to disassociate itself from CME.

Pursuant to Section 515.1(10) of the 1994 *Book of Discipline* the actions of Cross Roads in voting to disassociate from CME caused their automatic removal as Trustees of Cross Roads and Jimmie Shirley individually as a member of Cross Roads.

When the presiding pastor was unable to certify trustees for the July 1997 Quarterly Conference, the presiding bishop pursuant to the authority of Section 515.1(5), Section 601-4 and Section 606.2 of the 1994 *Book of Discipline* appointed the Mississippi-South Annual Conference Trustees as the trustees for Cross Roads.

In reaching its decision the trial court held that the title to the property was held in trust for CME. The principle as established by the *Book of Discipline* of CME, as well as the actions of the Petitioners and the language of the deed vested title in the four persons as the Trustees of Cross Roads CME, a CME church.

The Mississippi Supreme Court following the guidelines specified in *Jones* and enunciated in *Pentecostal* found that in applying these principles of law that the title to Cross Roads had been held in trust at all points in favor of CME by practice of the parties, the language in the 1947 deed as well as the modification by the 1994 *Book of Discipline* to cure the lack of the exact trust clause required in the 1946 *Book of Discipline* and held for CME.

REASONS FOR DENYING THE WRIT

It is abundantly clear in the case at bar that the Mississippi Supreme Court followed the dictates of this Court in *Jones v. Wolf* by applying the neutral principles of law to determine the title to the church property. At no point was there any ecclesiastical conflict or ecclesiastical law as claimed by Cross Roads. Even utilizing the requested neutral approach under common law as requested by Cross Roads, the Mississippi court in all probability would have found for CME, since the language of the deed is expressly clear that title was held in trust by the trustees for Cross Roads Colored Methodist Episcopal Church, a CME church by their own admission. It did not say of Steens, Mississippi, or of Lowndes County, Mississippi. These elements together with the uncontradicted fact that Cross Roads had always been a CME church clearly meant that the property was held in trust, and the trustees could not revoke their office to disassociate themselves from CME taking the property with them contrary to the assertions of Cross Roads in its petition and as mandated by *Pentecostal*. Cross Roads also never produced a document establishing itself as a local or autonomous church nor cited the trial court or Mississippi Supreme Court to any statute validating their claim.

The Mississippi Supreme Court has expressly followed the mandates of this Court set forth in *Wolf*. The substitution of the conference trustees follows the established church policy with regard to its property rights to which Cross Roads had adhered for at least forty-nine years prior to this attempted schism. While Cross Roads may have wanted to worship "just like Baptists," it was a CME church at all points and bound by the doctrine and principles stated by the CME church. One of these principles was that all of the church's property was held in trust for the mother church.

Being a member of CME as Cross Roads admittedly was meant that it accepted the doctrines of CME. It did not get to pick and choose which ones it wanted to keep and which ones it wanted to disobey. No one forced Cross Roads to be a CME church. It chose to be one with full knowledge of what the doctrines and policies of the church were for at least forty-nine years and more.

Under this set of circumstances there is no violation of the free exercise and establishment clauses of the First Amendment in requiring the local church in a hierarchical situation to adhere to the mother church's doctrine. Had Cross Roads elected from the very beginning to be a congregationalist or Baptist-type organization, it is abundantly clear that they would have had no obligations to a mother church. Cross Roads, however, chose to be a CME church.

The granting of certiorari in this case will not do anything further to clarify the existing law established in *Wolf* and followed by the Mississippi Supreme Court in *Pentecostal*. The correct decisions made by the trial court and the Mississippi Supreme Court have given weight and credence to the language of the deed, procedure, the forty-nine years of Cross Roads action and state law with reference to trusts. *See also Sustar v. Williams*, 263 So. 2d 537 (1972); *United Methodist Church, et al. v. St. Louise Crossing Independent Methodist Church*, 276 N.E.2d 916 (1971); *Clay, et al. v. Crawford, et al.*, 183 S.W.2d 797 (1944), and *Mr. Olive Board of Incorporators of the African Methodist Episcopal Church of Fruitland, Inc., et al. v. Mt. Olive African Methodist Episcopal Church of Fruitland, Inc., et al.*, 672 A.2d 679 (Md. 1996).

CONCLUSION

The Mississippi Supreme Court and the trial court have decided this case correctly, no further relief needs to be awarded to Cross Roads assuming that this Court even has jurisdiction and their Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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APPENDIX

APPENDIX A — ANSWER TO COMPLAINT AND COUNTERCLAIM DATED DECEMBER 29, 1997

IN THE CHANCERY COURT
OF LOWNDES COUNTY, MISSISSIPPI

CAUSE NO. 97-0742

CHRISTIAN METHODIST EPISCOPAL CHURCH

Plaintiff

Vs.

CHARLES SHIRLEY, LARRY BOULDES,
JIMMY A. SHIRLEY AND WILLIE BOULDES

Defendants

ANSWER TO COMPLAINT AND COUNTERCLAIM

Comes now Charles Shirley, Larry Bouldes, Jimmy A. Shirley and Willie Bouldes, Defendants, by and through their attorney, Curtis H. Austin, and file this their Answer and Counterclaim, to-wit:

I.

The Defendants admit to the allegation contained in Paragraph I.

II.

The Defendants deny the allegation contained in Paragraph II.

Appendix A

III.

Defendants deny the allegation contained in Paragraph III, specifically that they were members of or bound by the *Book of Discipline* of other authority of the Christian Methodist Episcopal Church.

IV.

Defendants deny the allegation contained in Paragraph IV.

V.

Defendants deny the allegation contained in Paragraph V.

VI.

Defendants deny the allegation contained in Paragraph VI.

VII.

Defendants deny the allegation contained in Paragraph VII.

VIII.

Defendants deny the allegation contained in Paragraph VIII.

IX.

Defendants deny the allegation contained in Paragraph IX.

Appendix A

X.

Defendants deny the allegation contained in Paragraph X.

XI.

Defendants deny the allegation contained in Paragraph XI.

XII.

Defendants deny the allegation contained in Paragraph XII.

XIII.

Defendants deny the allegation contained in Paragraph XIII.

XIV.

Defendants deny the allegation contained in Paragraph XIV.

XV.

Defendants deny the allegation contained in Paragraph XV.

XVI.

The Defendants deny that the Plaintiff is entitled to any of the relief requested in its pray one through seven.

Appendix A

COUNTERCLAIM

And, now having fully answered the Defendants file this their counterclaim against the Christian Methodist Episcopal Church, to-wit:

I.

Defendants would show the conveyance from H. L. Poole and wife was a deed to the Trusteed, individually, and not in trust for the use and beneficiary of the Christian Methodist Episcopal Church nor its successors or assignees.

II.

Defendants would show further that at no time since has any property been conveyed to the Christian Methodist Episcopal Church and that title remains in the Trustee, indirectly and in their capacity as trustees, elected by the congregation.

III.

Defendants would show, further, that at no time have they or their predecessors in title adopted or passed any resolution officially joining the Christian Methodist Episcopal Church; but, that said has been by voluntary association only.

IV.

Defendants would further show that at no time has the Christian Methodist Episcopal Church contributed to or provided assistance in the construction or maintenance of the

property, but, that all such improvements have been made by the members.

V.

Defendants would show further that they do not have any control over whether or not the members attend, pay due or make other contributions.

VI.

WHEREFORE, PREMISES CONSIDERED, Defendants pray that the Christian Methodist Episcopal Church, its agent(s), minister(s), associates, or bishops be enjoined from taking any actions against the Defendants in their official or individual capacity.

That title to the property be vested in the duly elected trustees of the Cross Roads Colored Methodist Church, elected by the Church.

That the Christian Methodist Episcopal Church be devested of any claim or color to the real property and titled to the Cross Roads Christian Methodist Episcopal Church.

That the Christian Methodist Episcopal Church, its agent(s), minister(s), associates, or bishops be enjoined from entering upon or trespassing upon the real property owned by the Cross Roads Christian Methodist Episcopal Church.

Appendix A

RESPECTFULLY SUBMITTED this the 29th day of December, 1997.

CHARLES SHIRLEY, LARRY BOULDES, JIMMIE A. SHIRLEY AND WILLIE BOULDES,
Defendants

BY: *CURTIS H. AUSTIN*

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* * *

APPENDIX B — STATEMENT OF ISSUES

IN THE SUPREME COURT OF MISSISSIPPI
NO. 98-CA-00587

CHARLES SHIRLEY, LARRY BOULDES, JIMMIE A. SHIRLEY AND WILLIE BOULDES

Appellants

Vs.

CHRISTIAN METHODIST EPISCOPAL CHURCH

Appellee

STATEMENT OF THE ISSUE

DID THE CHANCELLOR MANIFESTLY ERR AS A MATTER OF LAW IN DETERMINING THAT THE CHURCH BUILDING AND PROPERTY BELONGED TO THE HIERARCHICAL CHURCH, OR SHOULD SHE HAVE DETERMINED THAT IT BELONGED TO THE LOCAL CONGREGATION?